

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION
AND LIABILITY ACT (CERCLA)

14-14-F. Cost Recovery Arbitration

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to:

- a. refer cost recovery claims for resolution by arbitration; and
- b. to represent EPA at arbitration hearings, conferences, and negotiations.

2. TO WHOM DELEGATED. The authority in 1.a. is delegated to the Director, Hazardous Site Cleanup Division (HSCD). The authority in 1.b. is delegated to the Regional Counsel or his/her designee.

3. LIMITATIONS.

- a. The delegatee must obtain the advance concurrence of the Regional Counsel or his/her designee before exercising the authority in 1.a.

- b. The delegatee must notify the Assistant Administrator for Enforcement and Compliance Assurance and the Assistant Administrator for Solid Waste and Emergency Response, or their designees prior to exercising the authority in 1.a. The Assistant Administrator may waive the notification by memorandum.

4. REDELEGATION AUTHORITY. This authority may not be redelegated.

5. ADDITIONAL REFERENCES.

- a. Section 104, 107, and 122(h)(2) of CERCLA.

- b. Procedures for referral of cost recovery claims for resolution by arbitration and for representing EPA at arbitration hearings, conferences, and negotiations are published at 40 CFR Part 304, Arbitration Procedures for Small Superfund Cost Recovery Claims.

- c. Authority to enter into or exercise Agency concurrence in non-judicial agreements or administrative orders for the recovery of response costs is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders." Delegation 14-14-D may become applicable in two situations under the arbitration regulation:

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14-14-F. Cost Recovery Arbitration (Cont.)

5. ADDITIONAL REFERENCES. (cont.)

(i) if the Agency seeks to adopt a proposed arbitral decision as an administrative settlement pursuant to Section 122(h)(1) of CERCLA when the arbitration has been converted to a non-binding arbitration because costs increased to a dollar amount in excess of \$500,000, excluding interest, prior to the rendering of the final arbitral decision; or

(ii) if the parties to the arbitration settle the claim as an administrative settlement pursuant to Section 122(h)(1) of CERCLA, rather than having the settlement embodied in a proposed arbitral decision.

In either instance, if the total response costs at the facility exceed \$500,000, excluding interest, the Agency may not compromise the claim without the prior written approval of the Attorney General.

d. Authority to enter into or exercise Agency concurrence in de minimis settlements under Section 122(g) of CERCLA is delegated in Delegation 14-14-E, "De Minimis Settlement."

Date 11/20/00

/s/

Bradley M. Campbell
Regional Administrator